

STATE OF MAINE
OFFICE OF SECURITIES
121 STATE HOUSE STATION
AUGUSTA, ME 04333

IN RE:

Paul A. Dyer

NOTICE OF INTENT
07-031

ALLEGATIONS

1. Paul A. Dyer ("Dyer") (CRD # 3131390) is an individual whose last known address is 15 Phillips Road, Bangor, Maine 04401.
2. On December, 14, 2004, Dyer became licensed in Maine as a broker-dealer agent (formerly known as a sales representative) of Intersecurities, Inc. ("Intersecurities"), a Florida-based broker-dealer and investment adviser. On March 7, 2007, Dyer also became licensed in Maine as an investment adviser representative of Intersecurities.
3. Dyer holds a Resident Insurance Producer License (No. PRR12598) and a Resident Insurance Consultant License (No. COR56235) issued by the Maine Bureau of Insurance.
4. Dyer conducts his securities and insurance business under the name of Legacy Insurance and Financial Advisors, Inc.
5. In or about May 2005, Benjamin Russell and his wife, Joyce Russell, met Dyer when Dyer sponsored a "free lunch" seminar at a restaurant in Bangor, Maine. Following the free lunch seminar, Dyer met with the Russells several times at their home in Eastport, Maine, to discuss the Russells' finances.
6. On May 24, 2005, Benjamin Russell signed, on behalf of himself and his wife, a "Consultant Agreement" with Legacy Insurance & Financial Advisors, Inc. Dyer signed as the "consultant" for Legacy Insurance & Financial Advisors, Inc. Under the agreement with the Russells, Dyer agreed to "review his/her insurance programs, estate and financial plans and offer any advice, counsel, opinion or service with respect to the benefits, advantages, or disadvantages of the clients [sic] current plans or needs...and to prepare, in duplicate, a final written report incorporating the consultants [sic] advice, counsel or opinion in regards to such needs."

7. After receiving Dyer's financial plan, the Russells agreed to follow many of Dyer's recommendations. Dyer, acting as an agent the Russells, implemented much of the plan for them in his capacity as an insurance producer and an agent of a broker-dealer.
8. On September 5, 2007, in connection with an examination of Dyer's office in Bangor, the Office of Securities (the "Office") obtained a copy of a letter of complaint to Dyer from Benjamin Russell.
9. Following up on Mr. Russell's complaint letter, on September 26, 2007, an examiner with the Office spoke by telephone with Mr. Russell and his wife, Joyce Russell, who were both on the line during the call, to obtain a better understanding of the issues Mr. Russell had complained about in his letter. During the phone call, the Russells told the examiner about an incident involving Dyer that the Russells stated caused them to be very concerned. They said that Dyer had called The Hartford claiming to be Mr. Russell in order to obtain information about a Hartford variable annuity they owned through the Russell Family Revocable Trust ("Russell variable annuity"). The Russells said they only learned about the call because a customer service representative ("CSR") from The Harford called Mr. Russell to follow-up on "his" request for information. The Russells said they realized that it was Dyer who made the call to The Hartford when the CSR provided the facsimile number supplied by the caller. It was the facsimile number to Dyer's office.
10. At the time Dyer made the call to The Hartford to inquire about the Russell variable annuity, he was not listed as the agent on the account.
11. On October 18, 2007, Intersecurities filed an application to terminate Dyer's affiliation with Intersecurities as an agent and investment adviser representative of Intersecurities. The application indicated that Dyer had been discharged by Intersecurities on October 4, 2007, for "failing to follow firm policies and procedures, including the use of unapproved advertising."
12. On November 11, 2007, the Office received an application from Brookstone Capital Management LLC ("Brookstone"), an SEC-registered and Maine-notice-filed investment adviser, for Dyer to become licensed as an investment adviser representative for Brookstone.
13. In connection with Dyer's pending investment adviser representative application, on November 19, 2007, the Office sent a letter to Brookstone in which it asked that Dyer respond to the Russells' allegations that he had called The Hartford and pretended to be Mr. Russell to obtain information about the Russell variable annuity.

14. Dyer responded to the Office's request by letter dated January 7, 2008, in which Dyer stated: "I only contacted the [sic] Hartford with the Russell's [sic] in the room and with their blessing."
15. On February 22, 2008, the Office mailed to Brookstone and Dyer copies of audio recordings made by The Hartford, including a recording of a January 2, 2007, call made by Dyer to The Hartford in which he identified himself as Benjamin Russell and provided Mr. Russell's Social Security number to verify his identity as Mr. Russell. In the call with The Hartford, Dyer sought and obtained information about the Russell variable annuity. The Office asked Dyer to respond further to the Russells' allegations after he had listened to the recordings.
16. On March 12, 2008, Dyer sent the Office a letter in which he acknowledged that he made the January 2, 2007, call to The Hartford in which he claimed to be Benjamin Russell. In the letter, Dyer stated that on December 14, 2006, he had a telephone conversation with Mr. Russell during which Mr. Russell instructed him to "call and be me since you have all of my information," to which Dyer replied, "ok I will." In the same letter, Dyer stated: "My mistake was not making the phone conference call with him. My second error was not doing it the same day or at least the very next day....Unfortunately over two weeks went by before I got around to the task of calling which started the claim [sic] of events that followed."
17. Benjamin Russell did not tell Dyer to call The Harford and pretend to be him, nor did he give Dyer permission to call The Hartford and pretend to be him.
18. On March 27, 2008, Brookstone filed an application to withdraw Dyer's pending investment adviser representative application. Dyer's application remained pending until April 24, 2008, at which time the Office allowed it to be withdrawn.
19. Pursuant to 32 M.R.S.A. §16604, if the Securities Administrator ("administrator") determines that a person has engaged in an act constituting a violation of the Maine Uniform Securities Act, the administrator may issue an order directing the person to cease and desist from engaging in the act and may bar the person from association with any issuer, broker-dealer or investment adviser in the State.
20. Pursuant to 32 M.R.S.A. §16505, it is unlawful for a person to make in a record that is filed under the Maine Uniform Securities Act ("MUSA") a statement that, at the time and in the light of circumstances under which it is made, is false or misleading in any material respect.
21. Dyer made a false statement in a record filed under MUSA in connection with his investment adviser representative license application by stating in letters to the

Office that when he had called The Hartford and pretended to be Mr. Russell, it was with the Russells in the room and at the suggestion of Mr. Russell.

22. By falsely representing to the Office that when he called The Hartford and pretended to be Mr. Russell, it was with the Russells in the room and at the suggestion of Mr. Russell, Dyer engaged in acts that violated the Maine Uniform Securities Act, specifically 32 M.R.S.A. §16505.
23. Pursuant to 32 M.R.S.A. §16412(4)(M), the administrator may take disciplinary action, including the revocation of an agent and/or investment adviser representative license, against a person who has engaged in unlawful, dishonest, or unethical practices in the insurance business. Maine insurance law prohibits a regulated insurance entity¹ from using a pretext interview² “to obtain information in connection with an insurance transaction unless that entity or organization does not have a generally or statutorily recognized privileged relationship with the insurance consumer about whom the information is related, the interview is conducted for the purpose of investigating a claim and there is a reasonable basis, supported by specific information available for review by the superintendent, for suspecting criminal activity, fraud, material misrepresentation or material nondisclosure.” 24-A M.R.S.A. §2205.
24. Dyer engaged in an unlawful practice in the insurance business when he used a pretext interview under circumstances not authorized by law to obtain information about the Russell variable annuity.
25. Pursuant to 32 M.R.S.A. §16409, the administrator may institute a revocation proceeding under 32 M.R.S.A. §16412 within one year after the withdrawal of a license becomes automatically effective and may issue a revocation order as of the last date on which licensing was effective. Under §16409, the withdrawal of a license becomes automatically effective 60 days after the filing of the application to withdraw. Since the application by Intersecurities to withdraw Dyer’s agent and investment adviser representative licenses was filed on October 18, 2007, the withdrawals became effective on December 18, 2007. Thus, this proceeding to revoke those licenses is within the one-year time period allowed by statute.

¹ “Regulated insurance entity” includes any person or entity required to be licensed by the superintendent under Title 24-A, including a producer. 24-A M.R.S.A. § 2204(23)

² “Pretext Interview” includes an interview wherein a person, in an attempt to obtain information, pretends to be someone that person is not. 24-A M.R.S.A. § 2204(22).

NOTICE

Notice is hereby given that the Securities Administrator intends to issue an Order: revoking Paul A. Dyer's agent and investment adviser representative licenses; ordering Paul A. Dyer to cease and desist filing false or misleading records with the Securities Administrator; and barring Paul A. Dyer from association with any issuer, broker-dealer or investment adviser in Maine. 32 M.R.S.A. §§16412 and 16604.

If Dyer wants to request a hearing in this matter, he must do so in writing within thirty (30) calendar days of the date of this Notice of Intent. 32 M.R.S.A. § 16412(7).

Date: May 23, 2008

s/Bonnie E. Russell

Bonnie E. Russell

Acting Securities Administrator

Reviewed by:

Date: May 23, 2008

s/Stephen L. Diamond

Stephen L. Diamond

Assistant Securities Administrator

Presented by:

Date: May 23, 2008

s/Jacqueline M. Drouin

Jacqueline M. Drouin

Investigator / Examiner